

<p>PETITION TO THE DIRECTOR UNDER 37 CFR § 1.181</p> <p>Address to: Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p>	Attorney Docket No.	RIGL-010CIP3
	Confirmation No.	5361
	First Named Inventor	LUO, YING
	Application Number	10/616,101
	Filing Date	July 8, 2003
	Group Art Unit	1652
	Examiner Name	Rao, Manjunath N.
Title: "TANKYRASE H, COMPOSITIONS INVOLVED IN THE CELL CYCLE AND METHODS OF USE"		

Sir:

The Applicants request that the finality of the Office Action dated January 5, 2007, be withdrawn. The Office Action dated January 5, 2007, should be a non-final Office Action.

MPEP §706.07(a) states that a second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement (IDS) filed during the period set forth in 37 C.F.R. §1.97(c).

The Office Action dated January 5, 2007, sets forth four new grounds of rejections under 35 U.S.C. § 102(e) and is indicated as being final.

On page 6 of the Office Action, the Examiner states that the Office Action is final because: "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action."

The Applicants acknowledge that the claims were amended in their prior response, but disagree that the amendment triggered the new grounds of rejection.

The Applicants submit that the new grounds of rejection were not triggered by the amendment because the "new" art is relied upon to provide disclosure of claim elements that are present in both the amended claims *and* the claims before they were amended. Given this fact, there is no reason why the new rejections could not have been made in the previous Office Action.

In view of the foregoing discussion, the Applicants submit that the new grounds of rejection were not *necessitated* by an amendment to the claims.

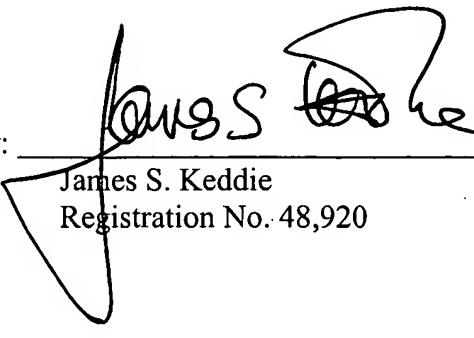
Since the new grounds of rejection were not *necessitated* by an amendment to the claims, pursuant to §706.07(a), this Office Action is improperly indicated as a final Office Action.

In view of the foregoing discussion, the Applicants petition the Director to withdraw the finality of the Office Action dated January 5, 2007.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number RIGL-039.

Respectfully submitted,
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Date: February 26, 2007

By: 

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